



POLICE DEPARTMENT

May 13, 2010

MEMORANDUM FOR: Police Commissioner

Re: Lieutenant Steven Cioffi  
Tax Registry 905956  
Central Park Precinct  
Disciplinary Case No. 85375/09  
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The above-named member of the Department appeared before the Court on January 13, 2010, charged with the following:

1. Said Lieutenant Steven Cioffi, while assigned to the Central Park Precinct, on December 29, 2008, while on duty, did utilize a Department computer to access Department records for personal and non-Departmental purposes.

P.G. 203-06, Page 1, Paragraph 16 – PERFORMANCE ON DUTY –  
PROHIBITED CONDUCT

2. Said Lieutenant Steven Cioffi, while assigned to the Central Park Precinct, on December 29, 2008, while on duty, did wrongfully utilize a Department vehicle for personal reasons unrelated to the official business of the Department or the City of New York.

P.G. 203-06, Page 1, Paragraph 16 – PERFORMANCE ON DUTY –  
PROHIBITED CONDUCT

3. Said Lieutenant Steven Cioffi, while assigned to the Central Park Precinct, on December 29, 2008, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Officer did interfere with the arraignment process of an individual that had been placed into custody because said individual was a personal acquaintance of his.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

4. Said Lieutenant Steven Cioffi, while assigned to the Central Park Precinct, on December 29, 2008, did wrongfully and without just cause make improper entries in Department records in order to secure the release from custody of an individual he was personally acquainted with.

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

5. Said Lieutenant Steven Cioffi, while assigned to the Central Park Precinct, on December 29, 2008, while on duty, was absent from said assignment without permission or police necessity from 2100 to 2330 hours.

P.G. 203-05, Page 1, Paragraph 2 – GENERAL REGULATIONS

6. Said Lieutenant Steven Cioffi, while assigned to the Central Park Precinct, on December 29, 2008, while on duty, did wrongfully fail and neglect to maintain said Lieutenant's Activity Log or record his movements in the Command Log, as required.

P.G. 212-08, Pages 1-2 – ACTIVITY LOGS, COMMAND OPERATIONS

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

7. Said Lieutenant Steven Cioffi, while assigned to the Central Park Precinct, on December 29, 2008, while on duty, did fail to sign himself in present for duty at the commencement of his tour, as required.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED  
CONDUCT GENERAL REGULATION

The Department was represented by Vivian Joo, Esq., Department Advocate's Office, and the Respondent was represented by Philip Karasyk, Esq.

The Respondent, through his counsel, entered a plea of Guilty to the subject charges. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent, having pleaded Guilty, is found Guilty as charged.

EVIDENCE IN MITIGATION

The Respondent, a 16-year member of the Department, was assigned to the Central Park Precinct. On December 29, 2008, the Respondent was assigned as the third platoon commander. He testified that his wife called him and said that her best friend's sister, Valerie Paolucci, had been arrested. The Respondent testified that he knew the Paolucci family through his wife and had spent several family occasions with them. He described the family as "good, hard-working people." The Respondent's wife also informed him that the Paoluccis' mother was "hysterical," and that the family was concerned because she had been diagnosed with congestive heart failure and suffered a heart attack approximately a month earlier.

When asked how he responded to his wife's telephone call, the Respondent testified, "[K]nowing . . . her heart condition, and also just being that they were good people, I just felt like I had to do something to alleviate their anxiety . . . and that's when I started thinking with my heart and not my head."

The Respondent testified that he looked up Paolucci's arrest in the BADS system on a precinct computer to find out why she had been arrested. He learned that the arrest took place in the 19 Precinct. Paolucci had been charged with aggravated harassment against her ex-boyfriend. The Respondent asserted that he asked his wife if Paolucci and the ex-boyfriend ever lived together in a "family-type setting." Because the Respondent's wife said no, the Respondent believed that the offense met the criteria for a desk appearance ticket (DAT). He did not know that a domestic incident report (DIR) had been prepared. [The parties stipulated that Paolucci's arrest was, in fact, for a domestic incident, and therefore the case did not qualify for a DAT.]

The Respondent testified that he went to Manhattan Central Booking "to see if I could do anything to help out." There, he vouched for Paolucci and asked if she could get a DAT. The Central Booking personnel said that if Paolucci were issued a DAT, she would be released. The Respondent went to the 19 Precinct to get the DAT paperwork. At the 19 Precinct, he got a serial number from the precinct's DAT logbook. The Respondent signed his name on the lines for the arresting officer, Police Officer Sonnett, as well as the desk officer. He returned to Central Booking and presented the DAT form to get Paolucci released.

Respondent's Exhibit (RX) 1 is the DAT. The Respondent listed "PO Sonnett" as the arresting officer. In the signature space labeled "rank/signature of arresting officer," the Respondent wrote "Lt," signed his name, then wrote "For." The Respondent testified that he did this to indicate that he was signing on behalf of another member of the service, Sonnett. In the space labeled "desk officer's signature," the Respondent wrote "Lt" and signed his name again. He set January 27, 2009, approximately one month in the future, as the return date.

After leaving Central Booking, the Respondent drove Paolucci to the Central Park Precinct, signed out, changed out of uniform, and brought Paolucci home with him.

The Respondent admitted that his actions violated Department procedure. He argued that his concern for Paolucci's mother's health and well-being clouded his judgment. He said that he was embarrassed by his conduct.

On cross-examination, the Respondent testified that although Paolucci's mother had heart disease, she did not require constant care. She was able to walk and take care of herself. The Respondent did not call Central Booking or the District Attorney's Office to let them know that there was a prisoner who had a mother with a heart condition.

The Respondent testified that when he learned that Paolucci had been arrested in the 19 Precinct, he tried calling that precinct to speak with Sonnett, the arresting officer. Sonnett, however, had already left for the day.

The Respondent learned most of the details of Paolucci's arrest from BADS. He admitted that the computer search was for his own personal reasons. He knew that Department computers were to be used for business purposes only.

The Respondent admitted that he drove to Central Booking in a Department vehicle. He knew that he was not authorized to go there or use the car. Similarly, he did not receive authorization that day to go to the 19 Precinct. At the 19 Precinct, he got a serial number from the precinct's DAT logbook. He conceded that his entry in the logbook was unauthorized and improper.

The Respondent testified that before his actions, Paolucci was scheduled for arraignment the following day. Had he not interfered with the arraignment process, an order of protection would have been issued for the complaining witness against Paolucci.

The Respondent conceded that he was absent from his assignment that day from 9:00 p.m. until 11:30 p.m., that he failed to make Activity Log entries for the actions that he took on behalf of Paolucci, and that he forgot to sign in present for duty at the start of his tour.

On re-direct examination, the Respondent asserted that he in no way attempted to get Paolucci's arrest squashed.

The Respondent asserted that at the time, he did not know that an order of protection was pending. He testified that approximately one week later, Sonnett called the Respondent and told him that an order of protection needed to be served. The Respondent called Paolucci and instructed her to go to the 19 Precinct. He believed that Sonnett called her as well. Paolucci

went to the 19 Precinct later that day and signed the order, constituting service. The Respondent testified that Paolucci appeared in court on the return date, and that the case was disposed of with an adjournment in contemplation of dismissal. The Respondent asserted that Paolucci never violated the order of protection.

On re-cross-examination, the Respondent admitted that he did not have permission from Sonnett to sign the DAT on her behalf. He conceded that he should have gotten permission before signing.

The Respondent was also contacted by the assistant district attorney assigned to Paolucci's matter. He told the ADA that it would be inappropriate for him to serve the order of protection, and "backed down from there."

#### PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974).

The Respondent was appointed to the Department on February 28, 1994. Information from his personnel file that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Respondent has pleaded Guilty to several offenses arising from his interference with the arraignment process of his wife's best friend's sister. The woman had been arrested for aggravated harassment of her ex-boyfriend. The Respondent left his assignment without permission, took a Department vehicle to Central Booking and the precinct of arrest, changed the arrest to a DAT, and obtained the defendant's release. The Respondent knew the defendant and

her family, and knew that her mother had recently been going through heart trouble. He reasoned he would be sparing the mother additional trauma.

What the Respondent did not know, however, was that the arrest was not eligible for a DAT because it was a family offense. Patrol Guide procedure 208-27 makes family offenses non-DAT-able. The Respondent testified that his understanding, from his wife, was that the defendant and complaining witness had never lived together as a couple. As set forth in Interim Order 17 of 2009, issued April 15, 2009, the Criminal Procedure Law and Family Court Act were amended to include within the family offense definition (listed in Patrol Guide procedure 208-36) matters involving unrelated parties in an "intimate relationship," without the requirement of cohabitation. Here, a DIR was issued and an order of protection was prepared, but it could not be served at arraignment because of the Respondent's misconduct. There is no evidence of further contact between the defendant and the complainant, however.

The Department argued that the Respondent's misconduct warranted a penalty including dismissal probation. The Respondent maintained that his forthright and remorseful testimony warranted a penalty of 30 or 45 vacation days, but not probation. The Department presented two cases in support of its penalty recommendation, the closer of the two being *Disciplinary Case No. 82008/06*, signed January 17, 2007. There, a thirteen-year member with no prior record pleaded guilty and received a penalty of 30 vacation days and one year of dismissal probation for improperly reclassifying and misclassifying charges on complaint reports on five occasions and signing another officer's name on complaint report scratch sheets on three occasions.

The instant matter is distinguishable from the above-cited case. In the instant matter, the Respondent signed his own name to the DAT and identified himself clearly as a lieutenant

signing “for” the arresting officer. He made no attempts to conceal his actions. His actions were improper, but did not involve the kind of falsehood seen in the cases cited by the Department.

Thus, in light of the Respondent’s work history and what the Court views as his sincere remorse, the Court recommends a penalty of 45 vacation days.

Respectfully submitted,



David S. Weisel  
Assistant Deputy Commissioner – Trials

**APPROVED**  
JUL 20 2010  
  
RAYMOND W. KELLY  
POLICE COMMISSIONER



POLICE DEPARTMENT  
CITY OF NEW YORK

**From:** Assistant Deputy Commissioner – Trials

**To:** Police Commissioner

**Subject:** CONFIDENTIAL MEMORANDUM  
LIEUTENANT STEVEN CIOFFI  
TAX REGISTRY NO. 905956  
DISCIPLINARY CASE NO. 85375/09

In 2009, the Respondent received an overall rating of 4.5 "Extremely Competent/Highly Competent" on his annual performance evaluation. In 2006 and 2008, he received an overall rating of 4.0 "Highly Competent." He has been awarded five medals for Excellent Police Duty.

\_\_\_\_\_ He has no prior formal disciplinary record.

For your consideration.

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David S. Weisel  
Assistant Deputy Commissioner – Trials